

AMENDED IN SENATE JULY 6, 2015  
AMENDED IN ASSEMBLY MAY 28, 2015  
AMENDED IN ASSEMBLY APRIL 27, 2015  
AMENDED IN ASSEMBLY APRIL 14, 2015  
AMENDED IN ASSEMBLY MARCH 18, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 348**

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**Introduced by Assembly Member Brown  
(Coauthors: Assembly Members Gipson and Mathis)**

February 17, 2015

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An act to amend ~~Sections 1266, 1279.2, and~~ *Section* 1420 of the Health and Safety Code, relating to health care facilities.

### LEGISLATIVE COUNSEL’S DIGEST

AB 348, as amended, Brown. ~~Health~~ *Long-term health care facilities: complaints: investigations.*

Existing law provides for the licensure and regulation by the State Department of Public Health of ~~health care facilities, including~~ long-term health care facilities, as defined. Existing law establishes procedures to be followed when the department receives a written or oral complaint about a long-term health care facility. A complaint is defined to mean any notice to the department, other than a report from the facility, of an alleged violation of applicable requirements of state or federal law or any alleged facts that might constitute a violation. *Existing law establishes the time period for which an investigation of a complaint*

*is required to be completed, and authorizes an extension of that time period under extenuating circumstances.*

~~This bill would require, effective January 1, 2018, the department to complete its investigation of a complaint or a report from a long-term health facility within 45 working days of its receipt, except that this period may be extended up to an additional 30 working days if the department has diligently attempted, but has not been able, to obtain necessary evidence related to the investigation. The bill would require the department, if it extends an investigation beyond 45 working days, to notify the complainant, in writing, of the basis for the extension. The bill would require, effective July 1, 2016, that the department's written determination provide specific findings concerning each alleged violation and include a summary of the evidence upon which the determination is based. require the department to apply the existing time periods for the investigation, inspection, and issuance of a citation under these provisions to a report from the facility of an alleged violation of applicable requirements of state or federal law or any alleged facts that might constitute a violation of those requirements. The bill would also require the department to analyze its compliance with the timeframes time periods for investigations on a quarterly basis and post those findings on its Internet Web site. The bill would make other technical changes to these provisions, as specified.~~

~~Existing law provides the complainant with 5 business days after receipt of the notice of the department's determination in which to request an informal conference, as specified.~~

~~This bill would instead provide the complainant with 15 days after receipt of the notice in which to request an informal conference.~~

~~Existing law requires the department, when it receives a complaint or report involving a general acute care hospital, acute psychiatric hospital, or special hospital, that indicates a specified level of danger, to complete an investigation of the complaint or report within 45 days. Existing law also requires the department to submit to the Legislature, and publish on its Internet Web site, a staffing and systems analysis that includes the number and timeliness of complaint investigations, among other things.~~

~~This bill would authorize a 30-day extension to the time period to complete the investigation if the department has diligently attempted, but has not been able, to obtain necessary evidence related to the investigation. The bill would require the department, if it extends an investigation beyond 45 days, to notify the complainant, in writing, of~~

~~the basis for the extension. The bill would also require the staffing and systems analysis prepared by the department to include data regarding the department's compliance with these requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 1420 of the Health and Safety Code is*  
2     *amended to read:*

3     1420. (a) (1) Upon receipt of a written or oral complaint,  
4     the state department shall assign an inspector to make a preliminary  
5     review of the complaint and shall notify the complainant within  
6     two working days of the receipt of the complaint of the name of  
7     the inspector. Unless the state department determines that the  
8     complaint is willfully intended to harass a licensee or is without  
9     any reasonable basis, it shall make an onsite inspection or  
10    investigation within 10 working days of the receipt of the  
11    complaint. In any case in which the complaint involves a threat of  
12    imminent danger of death or serious bodily harm, the state  
13    department shall make an onsite inspection or investigation within  
14    24 hours of the receipt of the complaint. In any event, the  
15    complainant shall be promptly informed of the state department's  
16    proposed course of action and of the opportunity to accompany  
17    the inspector on the inspection or investigation of the facility. Upon  
18    the request of either the complainant or the state department, the  
19    complainant or his or her representative, or both, may be allowed  
20    to accompany the inspector to the site of the alleged violations  
21    during his or her tour of the facility, unless the inspector determines  
22    that the privacy of any patient would be violated thereby.

23    (2) When conducting an onsite inspection or investigation  
24    pursuant to this section, the state department shall collect and  
25    evaluate all available evidence and may issue a citation based  
26    upon, but not limited to, all of the following:

27    (A) Observed conditions.

28    (B) Statements of witnesses.

29    (C) Facility records.

30    (3) (A) For a complaint that involves a threat of imminent  
31    danger of death or serious bodily harm that is received on or after  
32    July 1, 2016, the state department shall complete an investigation

1 of the complaint within 90 days of receipt of the complaint. At the  
2 completion of the complaint investigation, the state department  
3 shall notify the complainant and licensee in writing of the state  
4 department's determination as a result of the inspection or  
5 investigation.

6 (B) The time period described in subparagraph (A) may be  
7 extended up to an additional 60 days if the investigation cannot  
8 be completed due to extenuating circumstances. The state  
9 department shall document these circumstances ~~in its final~~  
10 ~~determination~~ and notify the facility and the complainant in writing  
11 of the basis for the extension and the estimated completion date.

12 (4) (A) For a complaint that does not involve a threat of  
13 imminent danger of death or serious bodily harm pursuant to  
14 paragraph (3) and that is received on or after July 1, 2017, and  
15 prior to July 1, 2018, the state department shall complete an  
16 investigation of the complaint within 90 days of receipt of the  
17 complaint. At the completion of the complaint investigation, the  
18 state department shall notify the complainant and licensee in  
19 writing of the state department's determination as a result of the  
20 inspection or investigation.

21 (B) The time period described in subparagraph (A) may be  
22 extended up to an additional 90 days if the investigation cannot  
23 be completed due to extenuating circumstances. The state  
24 department shall document these circumstances ~~in its final~~  
25 ~~determination~~ and notify the facility and the complainant in writing  
26 of the basis for the extension and the estimated completion date.

27 (5) (A) For a complaint that is received on or after July 1, 2018,  
28 the state department shall complete an investigation of the  
29 complaint within 60 days of receipt of the complaint. At the  
30 completion of the complaint investigation, the state department  
31 shall notify the complainant and licensee in writing of the state  
32 department's determination as a result of the inspection or  
33 investigation.

34 (B) The time period described in subparagraph (A) may be  
35 extended up to an additional 60 days if the investigation cannot  
36 be completed due to extenuating circumstances. The state  
37 department shall document these circumstances ~~in its final~~  
38 ~~determination~~ and notify the facility and the complainant in writing  
39 of the basis for the extension and the estimated completion date.

1 (b) Upon being notified of the state department's determination  
2 as a result of the inspection or investigation, a complainant who  
3 is dissatisfied with the state department's determination, regarding  
4 a matter which would pose a threat to the health, safety, security,  
5 welfare, or rights of a resident, shall be notified by the state  
6 department of the right to an informal conference, as set forth in  
7 this section. The complainant may, within five business days after  
8 receipt of the notice, notify the director in writing of his or her  
9 request for an informal conference. The informal conference shall  
10 be held with the designee of the director for the county in which  
11 the long-term health care facility which is the subject of the  
12 complaint is located. The long-term health care facility may  
13 participate as a party in this informal conference. The director's  
14 designee shall notify the complainant and licensee of his or her  
15 determination within 10 working days after the informal conference  
16 and shall apprise the complainant and licensee in writing of the  
17 appeal rights provided in subdivision (c).

18 (c) If the complainant is dissatisfied with the determination of  
19 the director's designee in the county in which the facility is located,  
20 the complainant may, within 15 days after receipt of this  
21 determination, notify in writing the Deputy Director of the  
22 Licensing and Certification Division of the state department, who  
23 shall assign the request to a representative of the Complainant  
24 Appeals Unit for review of the facts that led to both determinations.  
25 As a part of the Complainant Appeals Unit's independent  
26 investigation, and at the request of the complainant, the  
27 representative shall interview the complainant in the district office  
28 where the complaint was initially referred. Based upon this review,  
29 the Deputy Director of the Licensing and Certification Division  
30 of the state department shall make his or her own determination  
31 and notify the complainant and the facility within 30 days.

32 (d) Any citation issued as a result of a conference or review  
33 provided for in subdivision (b) or (c) shall be issued and served  
34 upon the facility within 30 days of the final determination. Service  
35 shall be effected either personally or by registered or certified mail.  
36 A copy of the citation shall also be sent to each complainant by  
37 registered or certified mail.

38 (e) A miniexit conference shall be held with the administrator  
39 or his or her representative upon leaving the facility at the  
40 completion of the investigation to inform him or her of the status

1 of the investigation. The state department shall also state the items  
2 of noncompliance and compliance found as a result of a complaint  
3 and those items found to be in compliance, provided the disclosure  
4 maintains the anonymity of the complainant. In any matter in which  
5 there is a reasonable probability that the identity of the complainant  
6 will not remain anonymous, the state department shall also notify  
7 the facility that it is unlawful to discriminate or seek retaliation  
8 against a resident, employee, or complainant.

9 (f) Any citation issued as a result of the complaint investigation  
10 provided for in paragraph (3), (4), or (5) of subdivision (a), and in  
11 compliance with Section 1423, shall be issued and served upon  
12 the facility within 30 days of the completion of the complaint  
13 investigation.

14 (g) *The department shall apply the time periods for investigation,*  
15 *inspection, and issuance of a citation established in this section*  
16 *to a report from the facility of an alleged violation of applicable*  
17 *requirements of state or federal law or any alleged facts that might*  
18 *constitute a violation of those requirements.*

19 (h) *The department shall analyze its compliance with the time*  
20 *periods for investigations established in this section on a quarterly*  
21 *basis, and shall, on a quarterly basis, post findings from the*  
22 *analysis on its Internet Web site. The analysis shall provide data*  
23 *on the department's performance, and shall include, at a minimum,*  
24 *all of the following data elements:*

25 (1) *The number of open investigations.*

26 (2) *The number of completed investigations.*

27 (3) *The number and percentage of investigations completed*  
28 *within the initial time period established in paragraph (3), (4), or*  
29 *(5) of subdivision (a).*

30 (4) *The number and percentage of investigations that required*  
31 *an extension authorized in paragraph (3), (4), or (5) of subdivision*  
32 *(a).*

33 (5) *The number and percentage of investigations that required*  
34 *an extension and were completed within the extended time period*  
35 *authorized in paragraph (3), (4), or (5) of subdivision (a).*

36 (6) *The average length of time to complete an investigation.*

37 (7) *The average length of time to complete an investigation that*  
38 *was not completed by the end of the extended time period*  
39 *authorized in paragraph (3), (4), or (5) of subdivision (a).*

40 (g)

1 (i) For purposes of this section, “complaint” means any oral or  
2 written notice to the state department, ~~other than a report from the~~  
3 ~~facility~~ department of an alleged violation of applicable  
4 requirements of state or federal law or any alleged facts that might  
5 constitute such a violation.

6 ~~(h)~~

7 (j) Nothing in this section shall be interpreted to diminish the  
8 state department’s authority and obligation to investigate any  
9 alleged violation of applicable requirements of state or federal law,  
10 or any alleged facts that might constitute a violation of applicable  
11 requirements of state or federal law, and to enforce applicable  
12 requirements of law.

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14  
15 **All matter omitted in this version of the bill**  
16 **appears in the bill as amended in the**  
17 **Senate, May 28, 2015. (JR11)**  
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